

PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port St. John Dependent Special District Board met in regular session on Wednesday, January 6, 2016, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

Board members present were: Vaughan Kimberling, Chair; Carmella Chinaris, Vice Chair; Randy Rodriguez; Wendy Porter; Pete Costello; Greg Messer; and Gary Musselman.

Staff members present were: Cindy Fox, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator II.

The meeting was called to order by Chairman, Vaughan Kimberling, at 6:02 p.m.

CHAIR AND VICE CHAIR NOMINATIONS

Vaughan Kimberling – Do we have any nominations for chairperson?

Randy Rodriguez – I nominate Vaughan Kimberling.

Carmella Chinaris – Second.

Vaughan Kimberling – I accept the nomination. Is there any other nominees?

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Vaughan Kimberling – Are there any nominations for co-chair?

Wendy Porter – I nominate Carmella.

Randy Rodriguez – I'll second.

Carmella Chinaris – I accept.

Vaughan Kimberling – Are there any other nominations for co-chair?

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

APPROVAL OF MINUTES

Vaughan Kimberling – The second item of business tonight is the review of the minutes from the September 9th meeting.

Carmella Chinaris – There's one slight change.

Vaughan Kimberling – The change is that the meeting was called to order by the co-chair, not the chairman.

Rodriguez – I move to approve the minutes as amended.

Pete Costello- Second.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

IV.B.1. (15PZ00067) – CHARLIE & MARIAN LAGGES – (Theodore Kyriakoulis) – request a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Restaurant, in a BU-1 zoning classification, on 0.39 acres, Located on the west side of U.S. Hwy 1, approx. 175 ft. north of Fay Blvd. (6813 N. U.S. Hwy 1, Cocoa)

PSJ Recommendation:

Randy Rodriguez – Mr. Chairman, before we get started, can I get a clarification from staff? I actually run ads for the operator of the facility, nothing to do with any of the food or beverage service, so I don't think there's a conflict, but if you think there is I will abstain from voting.

Cindy Fox – This request would not result in your financial gain?

Randy Rodriguez – No.

Vaughan Kimberling – Has the board had a chance to review the package? Are there any comments before we ask for the public comments?

Gary Musselman – I've got some questions for the applicant when the appropriate time is to do that.

Vaughan Kimberling – So, at this time if the applicant would like to make some comments and statements, and answer our questions.

Kyriacos Lagges – My name is Kyriacos (Charlie) Lagges, I am the property owner.

Vaughan Kimberling – And you're deferring to let the tenant speak? Is that what you want to do?

Kyriacos Lagges – Yes.

Vaughan Kimberling – If the tenant would like to step forward, please state your name for the record.

Ted Kyriakoulis – I'm currently the owner of Kelsey's. Charlie's the owner of the building. I would like to respectfully request to be allowed to sell more than beer and wine, because so many of my customers have requested many times, if we sell liquor. All these years, you know, I bought the business from Charlie 17 years ago, and I guess back then it was very easy, so there was no zone change back then, so now we have to go through this process, first here and then at the Commission in Viera. So, I would like, if I could, to be allowed from you guys to be able to sell and service my customers furthermore because we keep getting questions, and now we have a sports bar with about 15 TV's in there, so we have a crowd now on Sundays with football, and we have other events going on, like trivia night and things like that, and we get a lot of people that ask. So, I would like to be able to sell liquor. I mean, we're a family restaurant, our hours will stay the same. I'm not going to turn it into a bar with a restaurant; it's always going to be a restaurant with a small bar. Basically, it's convenient for our clientele to be able to serve them alcohol, a glass of whiskey, or whatever they might be looking for.

Randy Rodriguez – Mr. Chairman, as a point of order, after 30 years of doing business we all know Ted, but do you need it for the recording?

Jennifer Jones – Yes. Can you please state your name and address for the record.

Ted Kyriakoulis – Ted Kyriakoulis, I live here in Port St. John in Hundred Acre Woods, 6860 Sweet Bay Court, right here in Port St. John.

Vaughan Kimberling – At this point, I know that all of the board got the package and we have some questions for you, so I guess I'll start off and ask a question since I have the floor. If you receive this conditional use permit, you're requesting it because you have clients who are asking for something other than beer and wine, right?

Ted Kyriakoulis – Yes.

Vaughan Kimberling – Do you also see that this will increase your business?

Ted Kyriakoulis – Not necessarily, because after all these years we still get the same crowd. We will get a small increase in the wintertime with the snowbirds, and that's when I have most of the requests, you know, in the wintertime when people come from up north and they're used to, in Boston or New York, or wherever they come from, that they're able to get liquor instead of just beer and wine. The locals here, I don't think it's going to make much difference to them because they've gotten used to the same routine all these years, you know, 15 years from Charlie and now it's my 17th year at the location.

Vaughan Kimberling – Do you currently have the license?

Ted Kyriakoulis – The beer and wine?

Vaughan Kimberling – The alcohol license.

Ted Kyriakoulis – No, that's why the first step.....I applied at Viera and they gave me the green light that the location is suited and we have enough parking spots in order to accommodate, so they gave me the O.K., I paid the fee of \$850.00, and the first step that they told me to take is this.

Cindy Fox – No, you just made the application to apply for the conditional use permit. That's what the \$849.00 was for, for the conditional use permit application. Have you made any applications with the State, or inquired about what the liquor license would require?

Ted Kyriakoulis – Yes, I gave everything to Paul.

Cindy Fox – No, the State.

Ted Kyriakoulis – Yes, I have given the whole package to the agent from Viera and he said the first step is to get the O.K. from the local community and then we'll submit everything after we get the O.K. or not the O.K. from here. If we get a 'no', then it stops there, so there's no reason to go any further unless we get the clearance from here.

Vaughan Kimberling – You made a comment about parking, you said parking was adequate.

Ted Kyriakoulis – Yes, we have 46. The County came out and counted the spots and they counted 46 spots and we only need 35 spots because the kitchen and the serving area does not count. We occupy almost a third of the building, the kitchen area, the storage area, and the service area where the food comes out.

Vaughan Kimberling – So, the County came out and revised? You're telling us some information that we don't have.

Ted Kyriakoulis – Yes.

Vaughan Kimberling – Do we have a copy of those?

Wendy Porter – It's contrary to our information.

Cindy Fox – We don't have anything that shows that you have 46 parking spaces.

Ted Kyriakoulis – I counted them. I had them re-lined.

Gary Musselman – I just counted what's on photograph and come up with 21.

Ted Kyriakoulis – No, there's 46 because there's some on the side, right next to the pharmacy.

Gary Musselman – I counted those.

Ted Kyriakoulis – No, there's a lot more than that. I counted them myself.

Vaughan Kimberling – Do you happen to have a letter or something from the County that states all this?

Ted Kyriakoulis – No, but in order for them to give me the O.K. he went over the map, the survey that I provided him, and he told me that I have adequate space, and that's why he gave me the O.K. to pay the \$850.00 to go ahead. If he told me 'no', then there's no reason for me to pay, there's no reason to even apply.

Gary Musselman – I just counted the spots in the photograph in the front of the building.

Ted Kyriakoulis – No, you have to take the side of the building.

Gary Musselman – There's 18 spots in the front of the building. Down the side there's maybe a half dozen more spots. I just walked your property today because I was concerned about parking. Out back you have that driveway or whatever that is behind you, but if you pull back there.....there is not 40 spots on that property.

Ted Kyriakoulis – No, there's exactly 46 spots, I counted them today. You can go over there now and count them.

Gary Musselman – I just did, I'm counting them off of a photograph.

Ted Kyriakoulis – Did you walk to the side all the way by the pharmacy?

Gary Musselman – Yes.

Ted Kyriakoulis – And you didn't find 46? There are 46 lined parking spots right there.

Wendy Porter – You say you're counting some by the pharmacy on the side?

Ted Kyriakoulis – On our side, all the way back.

Cindy Fox – Perhaps he can step forward and show you what he's counting.

Gary Musselman – This picture is from 2015.

Ted Kyriakoulis – We go right over here by the dumpster, and there's parking spots all the way back here by the pharmacy.

(several speakers at once)

Gary Musselman – You don't get to 46.

Ted Kyriakoulis – We're only 2 minutes away, we can go over there and I can count every single one of them.

Cindy Fox – The dark lines represent the property, so you can't count anything outside of that. Are you saying you have improved parking in the rear?

Ted Kyriakoulis – Yes, on the rear and the side.

(Several speakers at once)

Carmella Chinaris – Who owns this?

Ted Kyriakoulis – We do, he does, the whole lot. I occupy the whole building and the whole lot, there's no other business there.

Vaughan Kimberling – According to the plot layout, that land back here is not owned by.....

Ted Kyriakoulis – No, I'm not talking about back here where the little.....but all of this is ours.

Carmella Chinaris – So, with all the parking shown on the plan you have 46 spots?

Ted Kyriakoulis – Yes. My employee's park all the way back behind the shed, so all this is open for the customers.

Carmella Chinaris – Did you guys hear that? This is the building, he's got parking here, parking here, and parking back here.

Gary Musselman – That's not lined back there.

Ted Kyriakoulis – Yes, it is. We can go over there and I'll show you if you have any doubts about that.

Wendy Porter – How recent is this information, then? This information is contrary to what the gentleman is saying right now.

Cindy Fox – These comments were written in the middle of last month. What we have that was provided.....I didn't have the 46 parking spot count, nor have we had anything striped, but that can be part of this process, about you demonstrating that you have enough parking. We need exhibits, not just a counting, we need you to actually show on an exhibit. It would be nice for the board to have something on a survey that shows how many parking spots.

Ted Kyriakoulis – What kind of exhibit to I need?

Cindy Fox – A site plan or a plot plan that shows all the parking.

Ted Kyriakoulis – I can provide whatever I need, but I wasn't notified that I had to do that.

Cindy Fox – That's a very important part of the CUP process and that can be a condition of your approval if the board chooses.

Ted Kyriakoulis – I have no issues with any of that.

Vaughan Kimberling – Ted, you have to understand that the data we have from the County is showing us something that is contrary to what you're telling us, so what we have to go by is what the County has provided us.

Ted Kyriakoulis – I understand, but maybe there is a mistake somewhere.

Vaughan Kimberling – If you have made some improvements you need to submit the evidence back to the County so they can get it back to us for review, because right now, according to the County paperwork, you have half the required parking that is required for your establishment right now.

Ted Kyriakoulis – When I made the application with the guy named Paul, tall guy with long hair in Planning, Paul looked it up and he had the same question as you, and then I explained to him and he zoomed in on a map and said, "Yes, you're right, you have all these spots in the back and on the side", so he came up with 46 as well. So, now I don't know what happened on the plan that they sent, but he's the one that gave me the green light.

Cindy Fox – We don't have anything that's been updated that shows 46 spots, so whatever Paul did there was no exhibit prepared, and whatever analysis he did it was just to take the application in. The analysis that was done with the staff report shows that you do not have the number of parking spaces improved that is required.

Ted Kyriakoulis – Can we do it physically? Can we go there, or do I have to submit a.....

Cindy Fox – What this board decides to do tonight.....

Ted Kyriakoulis – I'm open to anything you guys decide because I know exactly what kind of business I have and how many spots I have.

Gary Musselman – Obviously, parking is the key issue unless anyone has anything else, but if parking ends up as the only issue, can we.....because if he's going to go forward and spend money, we shouldn't be slowing him down.

Ted Kyriakoulis – The reason I did go ahead and submitted the \$850.00 was because he gave me the green light and said, "You're good".

Gary Musselman – Can we pass a motion with a condition that he demonstrates 46 parking spots to the County? Or do we have to see the condition has been met to give the approval.

Vaughan Kimberling – On the motion that we make we can put a stipulation on there that he would have to meet in order to fulfill the requirements for a full liquor license, so what I hear tonight is that we don't have the most current data. When did you make these changes?

Ted Kyriakoulis – The parking was always there, what I did was I brought a guy out there to line them up and make them clear because I knew the County was coming, they told me they would come and count.

Vaughan Kimberling – And they're all on the property of this restaurant. I'm struggling to understand, unless the size of the property increased I'm struggling to see where you're getting all these extra parking spots from.

Ted Kyriakoulis – It's always been there, but never paved.

Vaughan Kimberling – But the actual boundary lines of the property don't include.....I see where you're talking about, but the actual boundary lines of the property do not encompass that area.

Ted Kyriakoulis – You can really tell in the picture by looking at a little map like this. I don't know if you've ever been to my place, all along the side – you know where the pharmacy is, right, we have trees planted to separate the two properties, along the side there's another 25 spots right there going straight down the line all the way to the back and from both sides right across.

Carmella Chinaris – Another thing that you said, sir, is that the square footage that we have, the restaurant square footage of 4,510 is incorrect because that included the kitchen and it included the food prep area, which is not what would be included for parking because that's not where the tables are, and it's not where the people are. Is that correct?

Ted Kyriakoulis - Yes, that's what Paul said.

Carmella Chinaris – Because if that's the case they wouldn't need 45.

Ted Kyriakoulis – I have more than 45. If we actually need 35, then we've got 46.

Vaughan Kimberling – Cindy, can you clarify how they determine the square footage of the establishment?

Cindy Fox – There is no determination other than the entire building, and usually we use the Property Appraiser's information for their base information; however, in situations where it's non-conforming like this – in fact, we did it for the Icehouse restaurant – we did take out the kitchen area and bathrooms area and calculated the square footage that way, and that, again, would be another stipulation that I would like if the board chooses to approve this request, to have the applicant delineate the square footage that's used.

Charlie Lagges – The building size is 4,750.

Cindy Fox – I have 4,510 according to the Property Appraiser's office, so that means you need 45 spaces; you're claiming that you have 46, so we don't even need to worry about the internal square footage unless it turns out you don't have the 46 spaces.

Ted Kyriakoulis – I assure you, I'm there every day.

Carmella Chinaris – The other question I have is, the zoning change that we want to make for you, is that going to be with food, the liquor license for a restaurant that primarily serves food or is it possible that down the road it would be a bar only?

Ted Kyriakoulis – No, that's not a question because we've been established for 32 years. This year, Randy advertises for us that we're going to have a customer appreciation day for all of the community to come in there and eat for free. He's been advertising with Happenings for the last three months. So, there's no way that's going to change, you know what I mean?

Carmella Chinaris – Yes, I believe you 100%, but what I'm asking is, does the zoning change stay with that property, and is it contingent on it being allowed to have a full liquor bar if it is with food? Do you understand what I'm saying?

Cindy Fox – I understand what you're saying. If he sells the property and the new owner chooses to do away with the food and have the bar area expanded and just have a bar they could do that unless your approval is specific to being in conjunction with a restaurant.

Carmella Chinaris – And we area also permitted to make the stipulation that he has to have pictures of adequate parking?

Cindy Fox – He has to demonstrate that he has 46 parking spots.

Gary Musselman – How big is your kitchen, roughly?

Ted Kyriakoulis – Probably 1,500 square feet.

Gary Musselman – So, you've got roughly 3,000 square feet of seating area?

Ted Kyriakoulis – Yes, and if you want to minus where the food comes out and where the servers stand, so we've got to include another 300 square feet for that and then the two bathrooms in the little dining room and a big bathroom and closet area, and if you narrow all that down we're talking about 2,500 square feet of seating space.

Gary Musselman – It says you've got seating for 170 people, does that sound right?

Ted Kyriakoulis – Give or take, yes. I don't really have that many seats because I like people to be able to have some space between them, you know? I don't like everybody to be on top of each other.

Gary Musselman – I would imagine, being a pizza place, you get a lot of take-out business.

Ted Kyriakoulis – Yes, and delivery as well.

Gary Musselman – You guys deliver?

Ted Kyriakoulis – Yes.

Greg Messer – This is under a BU-1-A zoning, correct?

Vaughan Kimberling – BU-1.

Greg Messer – That's my mistake.

Ted Kyriakoulis – I hired your son today as a driver.

Cindy Fox – The Land Development Regulations for requiring the number of parking spaces for restaurants that want to serve alcohol, and bars as well, any restaurant, it used to be three spaces for every.....I'm sorry, you would take the total number of seats and divide it by three.

Ted Kyriakoulis – Yes, because three people in one car, basically.

Cindy Fox – That's the way that it used to be, and you would have fallen under that, but with 170 seats you're looking at 56 parking spaces, so even under the old code it still appears there's a parking shortage. So, if you truly have the 46 spaces on your property.

Ted Kyriakoulis – I do. Like I said, we can do it physically or.....

Cindy Fox – I need a plot plan that shows the spaces.

Ted Kyriakoulis – I have no issues with whatever stipulations you have, I'm going to provide.

Wendy Porter – How recently did you mark these new ones that you said you added?

Ted Kyriakoulis – Right before Christmas, maybe right when I posted the sign, when the County told me I had to post the sign, 25 days before the hearing.

Gary Musselman – Between the two of you, you've owned the place for 32 years, obviously it's a successful business, obviously you're going to continue the business. Would you anticipate when you go to sell the business, whenever that is, that you will be selling it continue it as a pizza restaurant?

Ted Kyriakoulis – Yes, I will sell it.....

Gary Musselman – You will be selling it as a turnkey business as opposed to the building.

Ted Kyriakoulis – I don't own the building; he owns the building. I would sell the goodwill of the business so the person who would come in he's going to sell 90% of food. Now, we've been audited by the State – how much liquor do you sell – they go with my invoices and receipts, and from the POS system he's going to know exactly what you sell and you have to give them the totals and analyze that and you get audited every month, because they are very strict about that, and I already know that.

Vaughan Kimberling – I have a question for Charlie.

Vaughan Kimberling – When I look at this plot for your property, and you are the owner of the property, have you made any additional purchases of land in the last couple of months?

Charlie Lagges – No.

Vaughan Kimberling – So, as I look at this land survey and it shows where the building is, and I see the property boundaries, and I see clearly parking that is outside of the property boundaries. The property boundary comes right up next to the building on both sides, almost touching. The parking that Ted is talking about is actually outside of the property line and it is along where the trees are, which is not on your property. So, based on that information it appears to me that the land survey here is actually reflecting your property boundaries accurately and it's also showing the parking that is outside of the property boundaries. I'm trying to ascertain in my mind that you have not gone out and expanded this property by purchase or agreement with another adjacent landlord, changed your property boundaries to accommodate this parking.

Charlie Lagges – Correct, I have not. By doing what Ted wants, the liquor license, would that change the zoning?

Vaughan Kimberling – It would be a conditional use permit that would be on the BU-1.

Cindy Fox – It's just like zoning, it's just an extra.....

Vaughan Kimberling – But we can put stipulations on that.

Carmella Chinaris – Ted, you've been there and have been a good neighbor in this area for all these years, and have your neighbors on either side expressed concern, or do you have an agreement with them about overflow parking when their businesses are closed?

Ted Kyriakoulis – Once in a while my drivers – because they want to take the deliveries quick – they go right across the pharmacy without going through U.S. 1, so I have told them not to cross the other guys line, but to go around. I talked with Raj, who owns the pharmacy, and all of that is resolved. The dentist, never had an issue with him because nobody really goes over there unless our parking lot is full and maybe some customers park there, but he closes at 4:00, so it never really created an issue with him, either with Dr. Zolner, or with the new guy that owns it.

Gary Musselman – Have you ever approached him about leasing his parking spots after hours?

Ted Kyriakoulis – There was never really a need for me to do that, but if that's what I have to do now, if it creates a problem with what I have, why not? I never have approached him. There was no need for me to pay something. We are on good terms with both neighbors and they have no issue with me. I buy my medicine from Raj and my wife goes to the doctor next door.

Gary Musselman – And they buy their pizza's from you.

Ted Kyriakoulis – It works for everybody.

Wendy Porter – It states here that both the parking spaces and the setback for the restaurant are non-conforming and do not meet current code. How big a problem is that that the setback is non-conforming?

Vaughan Kimberling – The setback....there's really nothing you can do about the setback because of the expansion of U.S.1 and et cetera, the boundaries have changed. When the building was originally built in 1964 everything was fine, but over the years things have changed, so the setback has been moved, the easement has been moved and you can clearly see all that, so that's something that really can't be changed. Am I correct, Cindy?

Cindy Fox – Yes, if he went to expand the building and construct more, he would have to meet the new code.

Wendy Porter – That's good.

Vaughan Kimberling – So, at this point the only thing that can be changed is the parking, because based on the way the property boundary lines are right now I just don't see where there is sufficient parking. I understand what you're saying, where you marked all the spots around the building and you came up with a different number, I understand that – but when I look at the land survey those areas are outside the property boundary and the landlord even stated that he has not expanded his property and that those parking spots are outside.

Ted Kyriakoulis – I don't think he understood the question.

Charlie Lagges – I understood the question. The boundary lines, as you pointed out, is very close to the back door, it's 8 feet out, and I don't want to speak up, but I think the property and the parking that Ted is talking about on the south side, going down, that would County property?

Carmella Chinaris – Like an easement?

Vaughan Kimberling – There is an easement, utility way right there for drainage and stuff.

Charlie Lagges – There's a lot of space there because a lot of trucks from FPL have no issues coming through to get to the pole in the back. Cisco gets back there for our deliveries, and it's a huge space back there for parking and for cars to go back there.

Vaughan Kimberling – There may be a big space and a right-of-way for those trucks and people to park there, but it's not on the physical property that the landlord owns, so it's outside of the property, it's not part of the restaurant and we cannot look at these parking spots over here and say they do add into your existing parking in the front of the building because they can't, they're outside your property.

Carmella Chinaris – They're grandfathered.

Vaughan Kimberling – They're not grandfathered.

Carmella Chinaris – They're grandfathered as long as this restaurant has been here.

Vaughan Kimberling – No, they are in clear violation of the code, right here.

Carmella Chinaris – They're in violation of the code, but this business and this building has been in operation, so nobody is going to come and shut them down for this violation. That is correct, right?

Cindy Fox – No, let me back up a little bit. In 1964 this building was constructed as a retail strip center, individual multi-tenant units. At that time, the parking was created and whatever they needed for a site plan they did at that time. This site was never developed to be a 170-seat restaurant. That is why you have the problem with the parking?

Gary Musselman – How did they ever get a permit to convert then?

Cindy Fox – It started small with two units and got bigger, and that's what happens.

Charlie Lagges – We got approved by the County.

Cindy Fox – I understand that you got approved, but you're not coming in for another permit, another use, you're adding liquor to your uses, and so the code allows us to review how your site works, your parking, and all of those things.

Ted Kyriakoulis – For me, I can't begin to understand how all these years. I mean, he was allowed to use the parking spots before he even sold it to me.

Cindy Fox – Sure, but he's not asking for full-liquor. You've come forward and you're asking for an additional use, so all the uses.....

Ted Kyriakoulis – But it's always been, like, 150 seats. We only added in the bar a few stools and a couple of tables. It's not like we added....

Vaughan Kimberling – But you never changed your zoning. You remained a BU-1 the whole time. Why this is coming forward now is because you're changing that; you're requesting a change. Had you not made that request you wouldn't be here today and nobody would be talking about your parking, but because you've gone forward and requested a change, we have to go and look at all the stuff and evaluate it and come up with a decision.

Ted Kyriakoulis – I understand the process.

Vaughan Kimberling – And that's where the County says you have these two Code violations.

Wendy Porter – Can't this be alleviated.....from what you said before, Cindy, about the Icehouse, can't he go and get a new plot plan, or whatever, and can't consideration be given to him for the area that he's saying – the kitchen, the food prep area – can't he be given consideration also that can be subtracted from the total square footage? That would help him with his problem.

Cindy Fox – This is what I believe needs to happen. I believe that he needs to go back and we probably need an updated plot plan that shows all the zoning, we need a breakdown of the square footage of the kitchen, the bathrooms, and the service area, and you probably need to go ahead and approach the dentist to the north, because I'm thinking he's probably closed in the evenings.....

Ted Kyriakoulis – Yes, Friday, Saturday, and Sunday he's closed.

Cindy Fox – And you need to enter into some sort of cross-sharing parking with him.....

Ted Kyriakoulis – Yes. The way we stand, if we have an issue that's what I will do.

Carmella Chinaris – Can I make a motion?

Cindy Fox – You need an agreement for that, to be included.

Carmella Chinaris – I'd like to make a motion. May I make a motion?

Vaughan Kimberling – Go ahead.

Carmella Chinaris – I honestly don't want to see this gentleman held up in his progress with his business, and I think part of the reason that we are a local board with local issues is that we've all been inside Mr. K's restaurant, and in the parking lot. I don't think that there's going to be any other use of this easement except that parking for this business. I think that we should allow this man to move forward by stipulating that we will show the County evidence of his parking, required parking, and also with the stipulation that this zoning change is a liquor license for a restaurant – primarily a restaurant only, not just a bar that goes with the property – so down the road that property cannot just be a bar if they should sell the building and/or the business. That's my motion, that we approve it with those stipulations.

Vaughan Kimberling – Can I add on to your motion?

Carmella Chinaris – Yes.

Vaughan Kimberling – What I would like to add on the motion is.....reiterate what she said, that the square footage of the restaurant needs to be delineated to ensure the proper number of parking spaces. Additionally, if the CUP is approved, I echo what my co-chair has said, that it's only valid for the restaurant. I'm going to add in there that it's only valid for Kelsey's.

Carmella Chinaris – Is that allowed?

Cindy Fox – It really isn't.

Gary Musselman – That would destroy his resale value.

Vaughan Kimberling – Ok, so we'll make it just for a restaurant. The next thing is that the site improvements must be completed prior to the service of full-liquor, so you will have to demonstrate to the County and the County office will have to approve everything. If it's all approved and it's good to go, then you will get your CUP. So, I would like to add all that onto your motion.

Gary Musselman – Can I add a little more to it? I agree with everything you said, but I think what we need to say is he needs to demonstrate the parking either on his property or by agreement to adjacent property, so it's clear he can go to the dentist and make an agreement with the dentist to use the property after dental hours.

Cindy Fox – I do think that's appropriate, but I would also suggest, and it's actually in your best interest for me to suggest this to you, is that that is a County easement that you are parking in, that you actually also seek approval from the County to have parking in there, because I think a customer at your restaurant that might get hurt in the parking lot, if it's not on your property it's not going to be covered by your insurance, but it would be covered under someone else's perhaps, and I worry about that liability of allowing shared parking off the

property without an agreement written and agreed upon, and likewise for the dental office to the north, the easement that he appears to be parking in and using I also think he needs to get the approval to use that for parking. It's just to cover.....if something happens.

Gary Musselman – I wonder how the business has been there for 30 years, obviously maintained and paved that easement property with nobody objecting, I mean, there's just something that doesn't make sense there.

Randy Rodriguez – All the utilities connect on the lot behind it, there's no use of that property except parking.

Vaughan Kimberling – We have a motion on the table. Are there any other additions to the motion?

Wendy Porter – I'd like to see what we discussed before, a new plot plan that delineates the space inside the building so it may give you a little bit more leeway on required parking spaces. If the kitchen and that area can be subtracted, that's going to give you some leeway.

Vaughan Kimberling – I think we've got that all covered.

Randy Rodriguez – It was in the original motion.

Vaughan Kimberling – You will have to provide all that information to the County.

Ted Kyriakoulis – Yes, I will do whatever it takes that I have to do. I'm not trying to run anything illegal here, and there has never been an issue, there has never been an accident, there's never been anybody suing us – me or him – all these years.

Carmella Chinaris – After all this, let's clarify. We've got a motion to approve the change with the stipulation that evidence is presented of parking, the square footage of the restaurant is re-calculated to show seating area only, and that the permission to park after hours in the doctor's lot and permission from the County to park in the County easement is granted, and the stipulation that the liquor license is for a restaurant only with this property. And if that is all adhered to.....

Vaughan Kimberling – And contingent on all those stipulations are met.

Carmella Chinaris – That's the motion on the floor.

Wendy Porter – I second it.

Charlie Lagges – Would he have to go to the dentist?

Carmella Chinaris – To make sure that there's an agreement that after hours parking by his customers in the dentist's lot in the hours that the dentist is not open is okay.

Randy Rodriguez – He may not need those spaces at the dentist.

Gary Musselman – That's what I wanted to say. If you do the math on this – the calculation is one parking spot for every 100 feet – if you subtract the kitchen areas out the way we're talking, and it gets down to roughly 3,000 square feet, then he only has to demonstrate parking for 30, not for 45 or 46.

Ted Kyriakoulis – Even Paul, from the County, he's the one that told me this. I didn't know that.

Gary Musselman – I think in order to not hold him up, we need to get hyper-specific and put into the motion that he demonstrates one parking spot per 100 square feet of restaurant space, minus kitchen, bathrooms, etc.

Carmella Chinaris – And if he can do that without any kind of agreement with the dentist, then that's fine.

Greg Messer – As long as he can meet all the criteria on his property he shouldn't have to go see the dentist. That's how we should structure our motion, that as long as he meets all the requirements that's required by the County.

Vaughan Kimberling – I think that's what we've said here.

Randy Rodriguez – Mr. Chairman, I call the question.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Vaughan Kimberling – This is supposed to go to the Commission.....

Cindy Fox – He's going to call Paul tomorrow and, Paul, you, and I will work together to get what we need.

Ted Kyriakoulis – What stipulation do I have to bring to your board?

Vaughan Kimberling – You don't have to come back to this board.

Cindy Fox – You're going to work with County staff before we go to the County Commission.

Vaughan Kimberling – You have our approval, but you have to meet all the requirements now and work with Cindy.

Randy Rodriguez – Charlie, when you go down to Viera you might want to ask them about vacating that right-of-way and acquiring that property, because I don't believe there's anything under that dirt that they need and they might like to have it. I don't think the County has any utilities under there, so they might just sell you that parcel.

Ted Kyriakoulis – What side are you talking about?

Carmella Chinaris – Where the parking is now.

Randy Rodriguez – Between you and Raj.

Ted Kyriakoulis – Okay.

Vaughan Kimberling – We need to continue with the meeting. We've already closed this. After the meeting we can have this discussion, but we do need to move forward with our agenda. The next item on the agenda is public comments and discussion. Are there any public comments or discussion from anybody? Okay, that being said I move to adjourn this meeting at 6:50 p.m.

Pete Costello – Second.

Upon motion and second, the meeting was adjourned at 6:50 p.m.